IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4845 of 2001
With
FIRST APPEAL NO 4846 OF 2001

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA
and
Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JASHABHAI APABHAI
Versus
STATE OF GUJARAT THRO' THE COLLECTOR AMRELI

Appearance:
1. First Appeal No. 4845 of 2001
MR YOGESH LAKHANI WITH PRASHANT MANKAD for Petitioner No. 1
MR S.P. SEN, AGP for Respondent No. 1
MR HS. MUNSHAW for Respondent No.2

CORAM : MR.JUSTICE B.J.SHETHNA
and
MR.JUSTICE N.G.NANDI

Date of decision: 28/01/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE B.J.SHETHNA)

1. Both these appeals are arising out of the impugned common judgment & award dated 20-2-2001 passed by Learned Assistant Judge, Amreli in Land Reference Cases No. 48 to 54 of 1999, whereby Learned Assistant Judge partly allowed references, except Land Reference Case No. 51 and 52 of 1999.

2. The impugned judgment & award dated 20-2-2001 passed by Learned Assistant Judge, Amreli, has been set aside by us today in First Appeals No. 4540 to 4545 of 2001 filed by appellant State of Gujarat, and the appellant was permitted to lead additional evidence and the matters were remanded to Learned Assistant Judge, Amreli, for his fresh decision, in accordance with law.

3. When we have already set aside the impugned common judgment & award dated 20-2-2001 passed by Learned Assistant Judge, Amreli, then, we are required to disposed of these appeals also.

4. Hence, both the appeals are admitted. Learned AGP Shri. Sen and Shri. Hemant Munshaw, appearing for Respondent no.1 State and Respondent No.2 Executi Engineer,Panchayat Irrigation respectively are directed to appear and accept notice of admission. At the joint request of learned counsel for the parties, both these appeals are heard & disposed of by this common order.

5. Having regard to the facts & circumstances of the case, it was agreed by learned counsel for the parties that without assigning any reason and expressing any opinion regarding legality and validity of the impugned award passed by Learned Assistant Judge, Amreli, dismissing Land Reference Case No. 51 and 52 of 1999 appeals be allowed, common judgment & award dated 20-2-2001 dismissing Land Reference Case No. 51 and 52 of 1999 be set aside, and the matters be remanded to the Learned Asst. Judge, Amreli for his fresh decision, in accordance with law.

6. Accordingly both these appeals are allowed and common judgment & award dated 20-2-2002 dismissing Land Reference Case No. 51 and 52 of 1999 by the trial Court is set aside and both the Land Reference Case No. 51 and 52 of 1999 are remanded to Learned Assistant Judge, Amreli, with a direction to decide the same afresh, in accordance with law. Both the appeals are disposed of accordingly, with no order as to costs.

Dt: 28-1-2002 (B.J. Shethna, J)

(N.G. Nandi, J)

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